

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DARRYL LEE CHERRY,  
Plaintiff,

v.

UNITED STATES OF AMERICA,  
DR. OLSON, FCI-MCKEAN,  
DR. BEAM, FCI-MCKEAN, MR. SMITH,  
HOSPITAL ADMINISTRATOR,  
JAMES F. SHERMAN, WARDEN  
FCI- MCKEAN, D. SCOTT DODRILL,  
REGIONAL DIRECTOR,  
HARRELL WATTS, ADMINISTRATOR,  
NEWTON E. KENDIG,  
BOP MEDICAL DIR.

Defendants.

Civil Action No. 04-292 ERIE

Judge McLaughlin  
Magistrate Judge Baxter

U.S. DISTRICT COURT  
CLERK

06 APR 17 AM 0:15

FILED

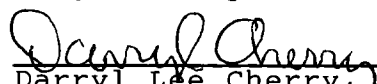
PLAINTIFF'S MOTION TO DISMISS

Plaintiff has read the Magistrate Judge's Report and Recommendation, and now realizes that this lawsuit should not have been filed prior to the conclusion of his administrative claim procedures. Further, Plaintiff has now been transferred to a Federal Medical Facility in Rochester, Minnesota.

Consequently, Plaintiff does not desire to take more of the Court's time, and requests that the Court dismiss his action pursuant to Civ. R. 41(a)(1).

Respectfully submitted,

April 10, 2006

  
Darryl Lee Cherry, pro se

CERTIFICATE OF SERVICE

I hereby certify that the following were served with a copy of the foregoing by my depositing a copy, postage prepaid, in the prison mail system:

U.S. Dept. of Justice  
Attn: Megan E. Farrell  
U.S. Attorney  
Western Dist. of PA  
633 U.S. Post Office &  
Courthouse  
Pittsburgh, PA 15129

Office of the Clerk  
U.S. Dist. Court  
Western Dist. of PA  
227 U.S. Courthouse  
P.O. Box 1820  
Erie, PA 16507

April 10, 2006

  
Darryl Lee Cherry

DARRYL LEE CHERRY  
Reg. No. 07928078  
Federal Medical Center  
PMB 4000  
Rochester, MN 55903-4000

April 10, 2006

Clerk of the Court  
U.S. Dist. Court  
Western Dist. of PA  
227 U.S. Courthouse  
P.O. Box 1820  
Erie, PA 16507

Re: 04-292 ERIE

Dear Clerk:

I enclose for filing, PLAINTIFF'S MOTION TO DISMISS. I appreciate your courtesy and cooperation.

Very truly yours,

Darryl Cherry